

DEPARTMENT OF STATE REVENUE

SUPPLEMENTAL LETTER OF FINDINGS NUMBER: 94-0004 CSET

**CONTROLLED SUBSTANCE EXCISE TAX
FOR TAX PERIODS: 1993**

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ISSUE

CONTROLLED SUBSTANCE EXCISE TAX: IMPOSITION

Authority: IC 6-7-3-5, IC 6-8.1-5-1(b).

Taxpayer protests the assessment of Controlled Substance Excise Tax.

STATEMENT OF FACTS

Taxpayer was arrested for possession and distribution of marijuana. The Indiana Department of Revenue issued a Record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on November 8, 1993 in a base tax amount of \$2,366,924.00. Taxpayer filed a protest to the assessment. A hearing was held by telephone on December 13, 1999. Taxpayer was granted until June 22, 2000 to submit additional evidence. A Letter of Findings was issued on June 30, 2000. Taxpayer did not receive the Hearing Officer's May 13, 2000 letter setting the final date for him to submit evidence on his behalf until August 13, 2000. Therefore, Taxpayer was granted a supplemental hearing and the opportunity to submit additional evidence until September 17, 2000. Taxpayer did not submit any additional evidence. Further facts will be provided as necessary.

Controlled Substance Excise Tax-Imposition

Discussion

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the possession and delivery of marijuana and cocaine in the State of Indiana. Taxpayer bears the burden of proving that the assessment of tax is incorrect. IC 6-8.1-5-1(b). The

arresting officer's report and Indiana State Police Laboratory report indicate that Taxpayer was in possession of 59173.1 grams of marijuana. Taxpayer alleged at the hearing that he was not in possession of that much marijuana. Taxpayer did not submit any evidence to prove that the Indiana State Police Laboratory report had the incorrect weight. Taxpayer did not sustain his burden of proving that the assessment was incorrect.

Finding

Taxpayer's protest is denied.